

# **EXHIBIT C**

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable Jacqueline Scott Corley, Magistrate Judge

EMILY FAIRBAIRN and MALCOLM	)	
FAIRBAIRN,	)	
	)	
Plaintiffs,	)	
	)	
VS.	)	NO. C 18-04881 JSC
	)	
FIDELITY INVESTMENTS	)	
CHARITABLE GIFT FUND,	)	
	)	
Defendant.	)	
	)	

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San Francisco, California  
Wednesday, September 16, 2020

**TRANSCRIPT OF OFFICIAL ELECTRONIC SOUND RECORDING**  
**OF REMOTE ZOOM VIDEOCONFERENCE PROCEEDINGS**

**9:00 A.M. - 9:23 A.M. = 23 MINUTES**

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**(APPEARANCES CONTINUED ON FOLLOWING PAGE)**

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1 a certain amount of time per page.

2 And so each side would have the same amount of time, and  
3 just, we would assign a certain amount of time per page. I  
4 don't know what that is yet. I'll address that at the pretrial  
5 conference. So, one thing.

6 Then the other thing is sort of the document -- exhibit  
7 list is enormously long as well. What I think -- I talked this  
8 over with my law clerk. I don't want any hard copies of  
9 anything until after the trial because, no doubt, the actual  
10 exhibits admitted will be a small portion of that list, and so  
11 then I can get just one binder with the admitted documents  
12 only.

13 In advance of trial, of course, I think the way to do it  
14 is through Dropbox, or Box.com is what they used in  
15 Judge Chen's case. I don't have a preference. Just as long as  
16 you share it with me and I can share it with my clerk and with  
17 Ms. Means as well. And then it was just as if it was a binder,  
18 but digitally, with all the exhibits in order, usually  
19 plaintiffs and then defendants.

20 But then, in addition, what they did -- and I think would  
21 be helpful for everyone here -- is they created separate  
22 witness folders. And each witness folder were the exhibits the  
23 party intended to use. Obviously, something may come up and we  
24 have to get another exhibit. But that way, for that witness  
25 for that day, we'll have a file with all that witness's planned

1 exhibits, plus the deposition transcript in case that's used  
2 for impeachment or refreshing recollection or whatever. We'll  
3 all have it in a file, digital file right there that we can get  
4 to. So that's how I would suggest we do it that way.

5 And then, during the trial, you just share screen. At  
6 this point, it would be up on the Elmo, or however it would be.  
7 We can share screen.

8 But what I plan to do is, at least with certain important  
9 documents, put them on my hard drive on another computer so I  
10 can pull them up and look at them separate from the sharing  
11 screen. Sometimes we have bandwidth issues or things like  
12 that.

13 And the other thing, in terms of who are we going to see.  
14 Of course, this is a trial and it will be public. Normally,  
15 our public trials, not that many people are interested and  
16 there's only a handful of people in the courtroom. This will  
17 be open to, actually, the entire world. I have no idea how  
18 many people will be watching, but it will be public. It will  
19 be a webinar.

20 But the screen, I think the best way to do it is for  
21 witnesses, you'll see the witness, the lawyer asking the  
22 questions, one -- right? -- each side can designate only one,  
23 and the lawyer who would be defending the witness, and me so  
24 that the screen would only have four people on it. I don't  
25 even think the court reporter we need to see, although we need

1     confident.

2             However you want to present it to me, I don't know. And  
3     you can decide how to present it to me one way or the other.  
4     Maybe I shouldn't -- who has the burden -- whoever it is, just  
5     have it presented to me so I can decide it on October 1st.

6             **MR. STRIS:** Understood.

7             **THE COURT:** And you guys can come up with whatever you  
8     think is the best way to do it, because I don't know the depth  
9     of what the argument is on either side.

10            **MR. MARCUS:** Your Honor, if the other side is done, I  
11     have a few issues I wanted to follow up on, but I didn't want  
12     to step in front of them.

13            **MR. STRIS:** I had nothing further. I don't know if  
14     Beth is off of mute or that's been resolved.

15            **MR. MARCUS:** Sure.

16            So, Your Honor, couple of the details and then a couple of  
17     larger issues, although I'll be very brief.

18            First, we had thought about providing witnesses with a  
19     binder of hard documents that would be sealed and be sent to  
20     them, both cross and direct; and then they'd open it in front  
21     of the Court, which might make it easier for them to work with,  
22     while we'd all be working with electronic documents.

23            Does the Court have any view on that?

24            **THE COURT:** Certainly, I don't object to them having  
25     the exhibits in front of them.

**CERTIFICATE OF TRANSCRIBER**

I, ANA M. DUB, CSR NO. 7445, RDR, CRR, CCRR, CRG, CCG, certify that the foregoing is a true and correct transcript, to the best of my ability, of the above pages of the official electronic sound recording provided to me by the U.S. District Court, Northern District of California, of the proceedings taken on the date and time previously stated in the above matter.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken; and, further, that I am not financially nor otherwise interested in the outcome of the action.

DATE: Friday, September 18, 2020



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Ana M. Dub, CSR No. 7445, RDR, CRR, CCRR, CRG, CCG